

**REMARKS**

**I. Status of the Claims**

Claims 1 and 29-33 are pending. Claims 1 and 29-33 have been amended. Support for the amendment can be found throughout the original specification. Specifically, support for the definition of a reshapable effect that "provide[s] a hair styling that can be restored or modified without new material or heat being applied" can be found in the specification at page 3, lines 11-13. Thus, no new matter has been added.

**II. Rejections Under 35 U.S.C. § 102**

**A. U.S. Patent No. 5,968,494**

The Examiner has maintained the rejection of claims 1 and 29-33 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,968,494 to Kukkala et al. ("Kukkala"). See Advisory Action. Applicants respectfully disagree and traverse the rejection for at least the following reasons.

Each of the presently pending claims recites that the "composition provides a reshapable effect," wherein "the reshapable effect provides a hair styling that can be restored or modified without new material or heat being applied." The Examiner asserts that Example 28 of Kukkala is drawn to "curl retention" and is "drawn to same effect" as claimed by Applicants. See Advisory Action at 3. Applicants disagree.

For a reference to be anticipatory, every element recited in the claim must be disclosed in the reference. See *Verdegaal Bros. v. Union Oil Co. of Cal.*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."). Furthermore, the words of a claim must be given their plain meaning

unless Applicant has provided a clear definition in the specification. *MSM Investments Co. v. Carolwood Corp.*, 59 U.S.P.Q.2d 1856, 1859-60 (Fed. Cir. 2001).

Applicants claim a composition that provides a reshapable effect, wherein the reshapable effect provides a hair styling that can be restored or modified without new material or heat being applied. Kukkala does not teach a composition that provides a reshapable effect.

As the Examiner acknowledges, Kukkala discloses the “retention” of curls. Curl retention is not a reshapable effect within Applicants’ claimed invention. The reshapable effect recited in the present claims requires the ability to restore or modify a hairstyle without adding new material or heat. In contrast, the hair retention of Kukkala involves styling the hair first, i.e., curling, and then applying the composition to fix the styled hair in place. See Kukkala at col. 18, lines 25-64. The composition retains the shape of the styled hair. The composition of Kukkala merely fixes a hairstyle in place. Thus, no “reshapable effect” as claimed is present because the composition of Kukkala is applied after the styling takes place. There is nothing within the disclosure of Kukkala to suggest that the composition allows for re-styling the hair after the composition has been applied. Nor does Kukkala teach that a hairstyle can be modified or restored without adding new material or heat after the hairstyle has already been fixed by the composition.

Thus, Kukkala merely teaches a composition with the ability to fix hair that has already been styled. Because Kukkala teaches a hair fixative and not a composition providing a reshapable effect, the reference fails to teach all of the claim limitations and cannot anticipate the present claims.

Accordingly, the 35 U.S.C. § 102(b) rejection of claims 1 and 29-33 over Kukkala is improper, and Applicants respectfully request its withdrawal.

**B. U.S. Patent No. 5,626,840**

The Examiner has maintained the rejection of claims 1 and 29-33 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,626,840 to Thomaides et al. ("Thomaides"). See Advisory Action. Applicants respectfully disagree and traverse this rejection for at least the following reasons.

The Examiner asserts that the "curl retention" disclosed in Tables 4-6 of Thomaides anticipates the claimed invention. Advisory Action at 2. Applicants respectfully submit that "reshaping" or "restoring" a hairstyle and "retaining" a hairstyle do not have the same meaning. Retaining a hairstyle occurs when hair is first styled and a fixative is applied to fix that hairstyle. As recited in the present claims, the reshapable effect provides a hair styling that can be restored or modified without new material or heat being applied. Thomaides does not teach a composition providing such a reshapable effect.

In fact, Thomaides teaches that the composition does not provide a reshapable effect by disclosing that the fixative is "superior . . . in stiffness and resistance to combing." Thomaides at col. 14, lines 59-62. This is the opposite of a reshapable effect, which is the ability to restore or modify a hairstyle without new material or heat being applied. See Specification at page 3, lines 7-15. Thus, Thomaides does not teach all of the limitations recited in the present claims.

Accordingly, the 35 U.S.C. § 102(b) rejection of claims 1 and 29-33 over Thomaidis is improper, and Applicants respectfully request its withdrawal.

**C. U.S. Patent No. 6,495,119**

The Examiner has maintained the rejection of claims 1 and 29-33 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,495,119 to Sturla et al. ("Sturla"). See Advisory Action. Applicants respectfully disagree and traverse this rejection for at least the following reasons.

The Examiner asserts that "shaping the hairstyle" as disclosed by Sturla at column 1, lines 20-21 is the same as the claimed invention. See Advisory Action at 2. The Examiner further asserts that "shaping hair style using polyurethane" is the same as "reshapable hair styling using polyurethane." *Id.*

The Examiner's assertion is incorrect. Maintaining a shape already given is not the same as providing a reshapable effect as recited in the claims. Sturla teaches that "[f]ixing of the hairstyle . . . can comprise maintaining the shape already given or in shaping the hair and fixing it simultaneously." See Sturla at col. 1, lines 18-20. To maintain a hairstyle means to keep that hairstyle, i.e., to fix the hairstyle in place. Conversely, Applicants define the reshapable effect to allow for restoring or modifying a hairstyle, such as when the hairstyle droops or becomes disheveled. See Specification at page 3, lines 7-15 for the explicit definition of reshapable. Thus, while maintaining a hairstyle aims to prevent the hairstyle from changing or being changed, a reshapable effect allows the hairstyle to be modified or restored after the hair has already been styled. While Sturla teaches that hair can be shaped and fixed simultaneously, Sturla

does not teach that the hairstyle can be modified or restored without new material or heat being applied, as recited in the present claims.

Because Sturla does not teach a composition providing a reshapable effect, the reference does not teach all of the limitations recited by the present claims. Accordingly, the 35 U.S.C. § 102(e) rejection of claims 1 and 29-33 over Sturla is improper, and Applicants respectfully request its withdrawal.

### III. Conclusion

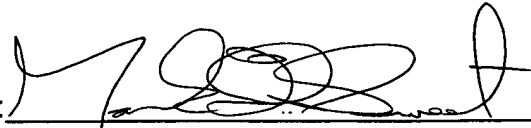
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 28, 2006

By:   
Mark D. Sweet  
Reg. No. 41,469